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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

DA No.933/92

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New Delhi this the 29th day of September 1997.

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Hon'ble Shri S.P. Biswas, Member(A)

1. Shri Ajaib Singh
No.857/DAP
S/o Singh Ram
Village Tikri
P.O. Tikri
Dist.Meerut, U.P.
2. Shri Sohan Pal
No.3011/DAP
S/o Shri Harbans Singh
R/o Village Bodhel Koithaware
P.O. Singoli
Meerut, U.P.

... Applicants

(By Advocate: Shri S.P. Sharma)

Vs.

1. Commissioner of Police
Delhi Police
I.P. Estate
New Delhi.
2. Lt. Governor
Delhi Administration
Raj Bhavan
Delhi.

... Respondents

(By Advocate: Shri Raj Singh)

ORDER

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

The applicants are aggrieved by the impugned order of termination from service as Police Constables passed by the respondents on 17.4.1967. The termination

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order had been passed under Rule 5 of the CCS (Temporary Service) Rules, 1965.

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2. The O.A. has been filed by the applicants on 19.11.1991 along with the Miscellaneous Application for condonation of delay. The respondents have filed their reply in which they have taken a preliminary objection that this application is time barred and is liable to be dismissed. The learned counsel for both the parties have been heard.

3. The learned counsel for the applicants has submitted that the termination order passed against the applicants was a consequence of the strike by the Delhi Police Non-Gazetted Karamchari Sangh in 1967. The applicants who were temporary Constables in the Delhi Police were enlisted on 1.5.1964 and 1.11.1966 respectively.

/ In the Original Application, Applicant No.2 has been referred to as Sohan Pal whereas the respondents have stated that it should be Constable Som Pal Singh. We find that in the affidavits placed on record dated 4.12.1991 and 30.3.1992 along with the application u/e 4(5)(A) of the CAT Rules, the applicants have signed as Ajaib Singh and Sohan Pal Singh. Although this point was not referred to during the oral arguments by either of the parties, we find that there is a material difference in the name of Applicant No.2. appearing in these records.

4. The learned counsel for the applicants has submitted that in view of the judgements of the Supreme Court and the Tribunal in Lt. Governor of Delhi and Ors. Vs. Dharam Pal and Ors. (1990 (4) SCC 13) dated 4.5.1990,

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Union of India and Anr. Vs. Shri Jaipal Singh, decided on 23.3.1992, and Bishambar Singh and Ors. Vs. Delhi Administration and Ors. (O.A. 2086/90 (CAT-PB)), decided on 25.8.1993 in which the facts are similar to the facts in the present case, there was no delay in filing this application. He submits that the respondents cannot take a different stand in his case and ought to have reinstated them in service after the judgement of the Supreme Court in Civil Appeals No.3376-3382 of 1988 decided on 4.5.1990 preferred by the Lt. Governor of Delhi and Ors. against the judgement of the Delhi High Court dated 18.7.1983. This judgement has been referred to in Bishambar Singh's case (Supra) by the Tribunal, in which it has been held that although the applicants in that case were challenging the legality of the order passed way back in 1967, the applications were not dismissed merely on the ground of limitation and the delay was condoned. The learned counsel submits that the applicants in the present case are also covered by these decisions and, therefore, there is no question of delay in filing the application.

5. Shri Raj Singh, learned counsel for the respondents, on the other hand has submitted that this case is hopelessly time barred. He has submitted that the applicants are relying on the judgement in Jai Pal Singh Vs. UOI and Ors. (OA-634/86) which had been decided by the Tribunal (Principal Bench) on 4.5.1989. Dharampal and Ors. who were similarly situated had originally filed application in the High Court of Delhi which was later transferred to the Tribunal (T.950/85) and decided on 26.11.1987. The learned counsel has submitted that the High Court had, exercising its extraordinary powers

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under Article 226 of the Constitution admitted this petition . He has submitted that apart from the question of limitation in this case, the Tribunal has no jurisdiction to entertain the present O.A. having regard to the provisions of Section 21 (2) of the Administrative Tribunals Act, 1985. Admittedly, the applicants had been terminated from service way back in 1967, ~~and~~ the learned counsel submits that they cannot agitate the matter in the Tribunal by the present application as the Tribunal can look into a grievance in respect of a matter which had arisen at any time during the period of three years immediately preceding the date of setting up the Tribunal i.e. upto November, 1982. He submits that no representation had been submitted by the applicants during this long number of years and even the representation referred to by them to have been sent sometime in 1991 has been ^{as not received by the respondents} denied /in the reply. He has relied on the judgement of the Tribunal in similar cases in Jagdish Pd. Vs. Delhi Admn. and Anr. (O.A. 788/93), decided on 9.12.1994, Shri Devi Ram Vs UOI and Ors. (O.A. 2255/88) with connected cases, decided on 18.7.1991 and Ram Suarup Vs. Delhi Administration and Anr. (O.A. 2257/91), decided on 4.10.1996 (copies of the judgements placed on record). He, therefore, submits that the O.A. is not maintainable. He further submits that even on merits since the applicants are nearly at the age of superannuation, it would not be in public interest to take them back on duties as they would not be able to perform the duties properly in a disciplined force as they have been out

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of service^{for} nearly 30 years and no useful purpose will be served by taking them back in service at this stage.

6. We have carefully considered the pleadings and the arguments of the learned counsel for the parties.

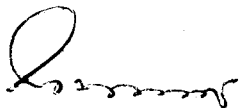
7. The learned counsel for the applicants has placed great stress on the judgement in Bishambar Singh's case (Supra) which was decided by the Tribunal on 25.8.1993, wherein the Tribunal had held that the application should not be thrown out on the ground that it is time barred. That case, however, will not help the applicants because that case is not on all fours with the present case. The Tribunal in OA 2086/90 has specifically observed that the petitioners lost no time after the Supreme Court dismissed the appeal preferred by the Lt. Governor and upheld the judgement of the High Court of Delhi. That is not the position in the present case. It is also relevant to note that the learned counsel has himself admitted that the applicants had not made any representation to the respondents after their termination from service except the representation made sometime in 1991, referred to in para 4.19 of the O.A. The respondents have, however, denied the receipt of any such representation. It is also relevant to note that even in this application, Applicant No.2 is referred to as Constable Sohan Pal and no date has been given. In the judgements of the Tribunal in O.A. 788/93 (in which one of us (Smt. Lakshmi Swaminathan) ~~XXXXXXX~~ is a Member) and O.A. 2557/91, referred to above, the same contention was made by the learned counsel for the applicants that


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as many other police constables whose services were similarly terminated have been taken back in service pursuant to the judgement of the Supreme Court/High Court and the Tribunal, the same should not be denied by the respondents to them on the ground that the claims are barred by limitation. This plea was, however, rejected in the facts of the case. Having regard to the above referred facts and circumstances of this case also, we respectfully agree with the reasoning given in the aforesaid judgements that the application is barred both by limitation and jurisdiction under the provisions of Section 20 and 21 of the Administrative Tribunals Act.

8. In the result, the O.A. as well as the M.A. for condonation of delay are dismissed. No order as to costs.


(S.P. BISWAS)
MEMBER(A)


(SMT. LAKSHMI SWAMINATHAN)
MEMBER(J)

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